

4.3 To the extent possible, INS and State Department Consular officials will consult, support, and assist the Carrier's efforts to screen passengers prior to boarding.

4.4 The INS shall determine each Carrier's Performance Level (PL) based on statistical analysis of the Carrier's performance, as a means of evaluating whether the Carrier has successfully screened all of its passengers in accordance with 8 CFR 273.3 and this MOU. The PL is determined by taking the number of each Carrier's violations of section 273 of the Act for a fiscal year<sup>1</sup> and dividing this by the number of documented nonimmigrants (i.e., those nonimmigrants that submit an Arrival/Departure Record, Form I-94, I-94T, or I-94W) transported by the Carrier and multiplying the result by 1000.

4.5 The INS shall establish an Acceptable Performance Level (APL), based on statistical analysis of the performance of all carriers, as a means of evaluating whether the Carrier has successfully screened all of its passengers in accordance with 8 CFR 273.3 and this MOU. The APL shall be determined by taking the total number of all carrier violations of section 273 of the Act for a fiscal year<sup>1</sup> and dividing this by the total number of documented nonimmigrants (i.e., those nonimmigrants that submit an Arrival/Departure Record, Form I-94, I-94T, or I-94W) transported by all carriers for a fiscal year and multiplying the result by 1000.

4.6 The INS shall establish a Second Acceptable Performance Level (APL2), based on statistical analysis of the performance of all carriers at or better than the APL, as a means of further evaluating carrier success in screening its passengers in accordance with 8 CFR 273.3 and this MOU. Using carrier statistics for only those carriers which are at or better than the APL, the APL2 shall be determined by taking the total number of these carrier violations of section 273 of the Act for a fiscal year<sup>1</sup> and dividing by the total number of documented nonimmigrants (i.e., those nonimmigrants that submit an Arrival/Departure Record, Form I-94, I-94T, or I-94W) transported by these carriers and multiplying the result by 1000.

4.7 The PL, APL, and APL2 may be recalculated periodically as deemed necessary, based on Carrier performance during the previous period(s).

4.8 Carriers whose PL is at or better than the APL are eligible to receive an automatic 25 percent reduction, if signatory to and in compliance with this MOU, on fines imposed under section 273 of the Act for periods determined by the INS.

4.9 Carriers whose PL is at or better than the APL2 are eligible to receive an automatic 50 percent reduction, if signatory to and in compliance with this MOU, on fines imposed under section 273 of the Act for periods determined by the INS.

4.10 If the Carrier's PL is not at or better than the APL, the Carrier may receive an automatic 25 percent reduction in fines, if it meets certain conditions, including being signatory to and in compliance with the MOU and the carrier submits evidence that it has taken extensive measures to prevent the transport of improperly documented passengers to the United States. This evidence shall be submitted to the Assistant Commissioner for Inspections for consideration. Evidence may include, but is not limited to, the following: (1) Information regarding the Carrier's training program, including participation of the Carrier's personnel in any INS, DOS, or other training programs and the number of employees trained; (2) information regarding the date and number of improperly documented aliens intercepted by the Carrier at the port(s) of embarkation, including, but not limited to, the aliens' name, date of birth, passport nationality, passport number or other travel document information, and reason boarding was refused; and (3) other evidence, including screening procedure enhancements, technological or otherwise, to demonstrate the Carrier's good faith efforts to properly screen passengers destined to the United States.

4.11 The Carrier may defend against imposition or seek further reduction of an administrative fine if the case is timely defended pursuant to 8 CFR part 280, in response to the Form I-79, Notice of Intent to Fine. The Carrier must establish that extenuating circumstances existed at the time of the violation in order to receive any further reduction in fine penalties.

4.12 Nothing in this MOU precludes a carrier from seeking reduction under 8 CFR 273.4.

\_\_\_\_\_  
(Representative's Signature)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Carrier Name)

Dated: \_\_\_\_\_

\_\_\_\_\_  
Assistant Commissioner, Office of  
Inspections, United States Immigration and  
Naturalization Service

Dated: \_\_\_\_\_

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## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### 25 CFR Part 161

RIN 1076-AC81

#### Navajo Partitioned Land Grazing Regulations

**AGENCY:** Bureau of Indian Affairs, Department of the Interior.

**ACTION:** Proposed Rule; reopening of comment period and additional request for comments.

**SUMMARY:** The comment period on the Department's proposed rule to 25 C.F.R. to govern the grazing of livestock on the Navajo Partitioned Land (NPL) of the Navajo-Hopi Former Joint Use Area (FJUA) of the 1882 Executive Order reservation is reopened to provide additional opportunity for public comment. Comments on this issue will be considered along with comments on the proposed rule published in the Federal Register on November 1, 1995.

**DATES:** Comments on these proposed rules must be submitted September 9, 1996.

**ADDRESSES:** Send comments to Bureau of Indian Affairs, Division of Water and Land Resources, Mail Stop: 4559-MIB, 1849 C Street, NW., Washington, DC 20240, or telephone number (202) 208-4004.

**FOR FURTHER INFORMATION CONTACT:** Robert Curley, (602) 871-5151, Ext. 5105, at the Navajo Area Office in Window Rock, Arizona.

**SUPPLEMENTARY INFORMATION:** The proposed rule was originally published in the Federal Register November 1, 1995 (60 FR 55507). The original comment period ended on January 2, 1996. Since the opening of the comment period considerable input has been received from the Navajo and Hopi Tribes. Due to the remoteness of the location and the inclement weather a large number of Tribal members have not been able to include their written comments. The reopening of this comment period for a period of 90 days will allow for maximum input from the public.

Dated: April 8, 1996.

Ada E. Deer,

*Assistant Secretary—Indian Affairs.*

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Public Health Service

#### 42 CFR Part 72

RIN 0905-AE70

#### Additional Requirements for Facilities Transferring or Receiving Select Infectious Agents

**AGENCY:** Centers for Disease Control and Prevention (CDC), Public Health Service (PHS), Department of Health and Human Services (HHS).

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This proposed rule is being promulgated in accordance with Section

<sup>1</sup> The total number of carrier violations of section 273 of the Act for a fiscal year is determined by taking the total number of violations minus violations for the transportation of improperly documented lawful permanent residents and rejected cases. Rejected cases include those cases where the INS has determined that either: (1) No fine occurred; or, (2) sufficient evidence was not submitted to support the imposition of a fine.